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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 004393

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SUBJECT: SEND LAWYERS, GUNS AND MONEY: THAILAND REFERENDUM
UPDATE

Classified By: Ambassador Ralph L. Boyce, reason 1.4 (b) and (d).

11. (C) SUMMARY: The campaign for the August 19 referendum is in full swing. There are reports of some clearly illegal campaign activities, such as vote-buying by opponents of the draft. The government side has also clearly exceeded the law in at least one case in which soldiers seized (although later returned) anti-constitution posters. Post has underscored the importance of permitting citizens to express their views freely during the campaign. The government has taken the position that while officials can only exhort citizens to vote, it is up to the Constitution Drafting Assembly members to argue on behalf of the constitution. This has led to a very strong get-out-the-vote campaign, but a very weak message in favor of the new constitution. Meanwhile, constitution opponents, particularly some members of the former ruling Thai Rak Thai, are campaigning actively against the new charter. Despite this, virtually everyone assumes that the constitution will pass, although perhaps with an embarrassingly low turnout. The embassy and congen Chiang Mai will have observers in the field for the vote. Thanks largely to support from democracy funds from the Bureau of Democracy, Human Rights and Labor (DRL), Thailand's independent poll monitoring organization will have about 4000 observers in the field as well. This will be particularly useful, as we anticipate both sides will continue to raise accusations of illegal campaign activities even after the vote. End summary.

WHAT EXACTLY IS LEGAL?

12. (C) With the ink not yet dry on the Referendum Law, officials are scrambling to figure out just what is and is not legal in the referendum campaign, and the Election Commission is struggling to monitor the situation nation-wide. Reports continue to circulate that opponents of the constitution are offering money to voters in northeastern provinces (particularly Surin, Sisaket and Buriram) to stay home or vote no. This activity is being linked to former Prime Minister Thaksin loyalist Newin Chidchob, known for his confrontational political style, whose stronghold is in those provinces. The Election Commission (ECT) has come under criticism for not finding any evidence of the vote-buying so far. (Note: poloff will be traveling in these areas this week, and will report on voters' views and finances. End note.)

13. (C) Vote buying is, at least, clearly illegal. So is the

distributing of T-shirts with anti-constitution slogans, which has happened in some areas of the country (voters may not be given anything of value in exchange for their vote; this includes T-shirts.) Less clear is how to respond to other anti-constitution activity, such as the sudden appearance of anti-constitution bumper stickers on taxis in early August. Government officials were clearly dismayed by the bumper sticker campaign ("I accept passengers; I don't accept the new constitution.") Officials have not yet sorted out their position. One view holds that the bumper stickers are legal as long as the drivers were not paid to display them. A stricter interpretation holds that all such bumper stickers are "advertising" and are not permitted on public conveyances. It is not clear which interpretation will win out. A phone survey of taxi companies we conducted today indicates that the number of bumper stickers is probably quite small and the companies have received no government instruction about them. None of their drivers has faced fines or other issues with police, as far as the central offices know, although the press reports that some taxi drivers have been questioned by police or told to remove stickers. The government is particularly concerned about taxi drivers, as they are one of the largest organized, generally pro-Thaksin groups in the capital.

¶4. (C) It was clearly legal for former Senator Prathip Ungsongtham Hata to print up posters saying, "It is not illegal to vote no in the referendum." (Prathip is one of the leaders of the UDD -- United Front of Democracy against Dictatorship - the main pro-Thaksin/anti-coup protest group; this is the new name of the Democratic Alliance Against Democracy - DAAD.) Nonetheless, the posters were confiscated near her home in Bangkok's slum neighborhood on July 18. She

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reported that the posters were seized by a small group of soldiers and police, who claimed that they were checking the containers for guns. Prathip filed a complaint with the police, and consulted with the ECT, which confirmed that the content of the posters was legal. The posters, minus those damaged in the seizure, were returned by the end of the day.

EMBASSY RAISES REFERENDUM CONCERNS

¶5. (C) Polcouns raised these cases on August 9 with Thirapat Serangsan, Minister to the Prime Minister's Office, who is one of the government's leaders in the "get out the vote" campaign. Thirapat says that putting the new constitution to a referendum was his idea, in order to gain more legitimacy for a document born in the wake of a coup. He was clearly struggling with some of the questions of what is permitted and not permitted in the campaign. Polcouns underscored the need for citizens to have the opportunity to express their views, or else the referendum would be viewed as a sham. Polcouns noted in particular our concern about the seizure of posters from the UDD member, as there could be no legal basis for soldiers to be involved in the search or seizure, regardless of the content of the posters. After consulting the law, the Minister agreed that there did not appear to be anything illegal about the posters, and conceded that, as there is no martial law in Bangkok, soldiers should not have been involved, even if they were investigating a report of illegal weapons possession. He said that he had not heard of the case, and agreed to look into it. We subsequently provided him with a press report and with information we got directly from UDD leader Prathip about the incident.

GOVERNMENT HAMSTRUNG

¶6. (C) Minister Thirapat said that the government believes that the constitution will pass the referendum, but they are concerned that the turnout will be so low that it will undermine the legitimacy of the new charter. He worried that turnout could be as low as 10-20 percent. (The ECT told us

unofficially that 35 percent was about the best they could expect, although in recent press reports they are predicting a much higher turnout. Many officials have echoed the concerns about low turnout.) The government is therefore involved in a veritable orgy of events to mobilize voters. Minister Thirapat took a street theater group out to the weekend market and shopping areas to drum up support in Bangkok. Participants from all over the central part of the country were bused in on Monday morning for a rally at the Democracy Monument led by the Prime Minister.

17. (C) The government is hamstrung, at least officially, by the terms it has set itself. The PM has told government agencies to maintain a neutral position, just encouraging people to inform themselves and vote as they believe. Official advertising and events appear to hew to this position, as far we can determine. (One of the participants in Monday's rally, for example, told us that it was part of the campaign to get the citizens to "use our right" and vote in the referendum.) This leaves the campaigning for the constitution primarily to the Constitution Drafting Assembly members. These venerable academics and bureaucrats have a limited budget and outreach to the rural population, which is not predisposed to take a keen interest in this long, legal document. The government structure of village chiefs and provincial authorities would be the natural network to publicize the positive elements in the new constitution, but they are, at least officially, not supposed to take sides. (Comment: We expect that discipline is breaking down out in the countryside, however, and presume that some local officials are arguing for the draft charter, and some against. End comment.) Political parties that support the constitution, such as the Democrats, are saving their resources for the December parliamentary elections. They are also lukewarm in their support, seeing the adoption of the constitution as desirable because it is the next step to return to elected government, not because they have any great enthusiasm for the new charter's provisions.

18. (C) This leaves the field free for the charter opponents, who include some of the very talented politicians from former

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Thai Rak Thai. They do not expect, by most reports, to succeed in blocking the adoption of the constitution, but they are trying to make this a show of strength. One campaign slogan ("If you love Thaksin, reject the constitution") will be particularly infuriating for the government. If they can muster a significant no vote, particularly in the areas where they are active (including Bangkok), this will be a sign that they will be a real force in the parliamentary election.

COMMENT

19. (C) With only one more week to go, the government expects a reasonably successful referendum, and will pull out all the stops this week to drum up more voter participation. After the election, we expect further investigations into vote-buying allegations, as well as accusations from the opposition that the government rigged the vote. Due in large part to support from DRL democracy funds, some 4000 independent monitors from Pollwatch-PNET, Thailand's independent poll-monitoring organization, will be deployed to observe the voting; this should provide an important reality check on accusations of fraud. Embassy and Congen Chiang Mai will also have about a dozen observation teams working.

BOYCE